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International Court of Justice

H0922 -0002

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1000-1130 Hours
28 May 1946
Meehan

OFFICIAL TRANSCRIPT OF TESTIMONY FOR THE DEFENSE OF ORGANIZATIONS TAKEN BEFORE A COMMISSION APPOINTED BY THE INTERNATIONAL MILITARY TRIBUNAL, DATED 13 MARCH, 1946.

Tuesday, 28 May, 1946.

COMMISSIONER:

Captain Tubridy

THE SA.

(The Commission convened at 1000 Hours.)

GOTTFREID BOLEY, a witness, took the stand and testified as follows:

CAPTAIN TUBRIDY: Does the witness understand that he is still under oath?

THE WITNESS: Yes.

DIRECT EXAMINATION.

MR. ASCHENAUER: The President yesterday commented on the fact that Documents, which I referred to, were not presented. I am going to present this Document today. It is an ordinance of the SA-University of Munich. I am going to present these Documents to the president of the court and the prosecution both in English and in German.

CAPTAIN TUBRIDY: Will this Document be read into the records?

MR. ASCHENAUER: I wish to present the most important paragraphs and would like to have them included in the minutes.

CAPTAIN TUBRIDY: I understand that you are presenting this Document. For the record, we will identify the Document as Defendant Organizations - SA Exhibit 1. (copy at end of witness' testimony)

H0922 - 0003

MR. ASCHENAUER: I quote: Paragraph 1. "In May 1934 all German students having passed their abiturium 1933 are conscript by the SA-Hochschulant in order to be uniformly trained bodily and mentally in the sense of the National Socialistic revolution according to the Order of the Fuhrer of September 9th, 1935.

I quote Paragraph 3. "According to the order of 7th February 1934 SA Service (SS Service is made obligatory for all members of the German Studentship.) According to the Order of the Obersten SA Fuhrung F 6914 of 27th March 1934 closing of admission to the SA is dissolved for new matriculated students in the time from 25th April to 5th May 1934. Thereby it is a duty for all new matriculated students to join the SA."

I quote Paragraph 4. "By order of the Minister of Inner Affaires of the Reich the continuation of the study for members of the German studentship from the 5th semester (firstly working Easter 1935) depends on the possession of a certificate about the year of service at the SA Hochschulamt testified according to prescription."

Furthermore, I would like to submit in this connection an additional Document, the so-called Justizansbildingsorduning or Regulations for the Training of the Professional Men, such as lawyers or legal experts, issued in the year of 1934. I would like to quote only one sentence from that Justizansbildingsorduning.

Mr. Aschenauer

CAPTAIN TUBRIDY: If you have Documents, you should first present them to the court and to the prosecution and see if there are any objections to them.

MR. ASCHENAUER: In general, this procedure would be followed, but there has not been a conference with Colonel Neave and the matter of procedure

H0922 - 0004

has not been clarified.

CAPTAIN TUBRIDY: It is now being clarified. We should like to have the Documents first presented to the court and also to the prosecution before we proceed. If the Document is going to be used in evidence, we should like to have a copy presented to the court and to the prosecution before we proceed further.

MR. ASCHENAUER: This decision of the court comes too suddenly for me. I have to submit most important Documents in the court of this session and I cannot agree yet to this procedure.

CAPTAIN TUBRIDY: Do you have the Documents in your possession.

MR. ASCHENAUER: Yes, I have them here.

CAPTAIN TUBRIDY: If you want to use them with this witness, you must present them first to the court and to the prosecution.

MR. ASCHENAUER: In this connection, I insist that the Witness be called later, if you insist upon the examination of the Documents which I refer to.

CAPTAIN TUBRIDY: Are you going to use the Documents in connection with this witness?

MR. ASCHENAUER: The Documents, which I am producing today, make reference to the complaint to the President of the Court yesterday that I did not present the Documents yesterday, so I am presenting them today.

CAPTAIN TUBRIDY: Are you using these Documents in connection with this witness?

MR. ASCHENAUER: Yes.

CAPTAIN TUBRIDY: If you want to examine the witness in connection with the Documents, please present them to the court and to the prosecution.

H0922-0005

MR. ASCHENAUER: In that case, I would like to present the Documents right now.

CAPTAIN TUBRIDY: Is there an English translation of the Document?

MR. ASCHENAUER: I have no English translation of the Document, but I refer only to the sentences which are underlined.

(MR. ASCHENAUER PRESENTS THE DOCUMENT TO THE COURT AND TO THE PROSECUTION.)

COLONEL JONES: It is quite impossible for the prosecution to deal with these Documents unless they are submitted in English and the prosecution must have the time to study the documents. I have no objection to having the witness proceed, so long as we may have these documents translated now.

CAPTAIN TUBRIDY: Both Documents will be accepted under those conditions.

COLONEL JONES: I understand that in the first Document which is submitted in English and in German, there is a sentence missing in one paragraph and certainly the translation in some parts makes no sense at all, so that Document must again be translated.

CAPTAIN TUBRIDY: The Documents will be permitted in evidence now, subject to the witness being recalled when the Documents have been translated and the prosecution has an opportunity to examine the translation. On that basis, we may proceed.

MR. ASCHENAUER: Then, I would like to quote from a Document, which has already been admitted.

CAPTAIN TUBRIDY: Please give us the reference number of that Document.

MR. ASCHENAUER: This is Document No. PS 2354 of the Prosecution. The Document is an agreement between the National Socialist German SS of June 15,

H0922-0006

1936. Section 6 of this Agreement reads as follows: "The National Socialist NSDAP assumes the responsibility to see to it that all German students belong to one section of the party of the SA, SS, NSDAP or the HJ. The gathering of all students has to take place in accordance with the new orders of the ~~NSDAP~~ German National Socialist Party Student Association in groups of thirty men and in accordance with their membership in one of the Departments of the National Socialist Party."

In this connection, I would also like to quote an affidavit by Dr. Friedrich Weber, which I request to submit as evidence. This affidavit describes the methods how the Weber agreement had been carried out. I would like first to request the admission of the Document and suggest you consider it as SA Exhibit No. 2.

CAPTAIN TUBRIDY: This Document has not been presented in evidence and I wish that council would realize he cannot quote Documents unless they are first presented to the court and to the prosecution.

MR. ASCHENBAUER: I ask for permission to submit that Document now.

(THE DOCUMENT IS SUBMITTED TO THE COURT AND TO THE PROSECUTION.)

MR. MASE: Document No. PS-2354 submitted to the Tribunal does not contain the quotation translated by the Defense Council, therefore the reference to the Document under this number would be misleading.

MR. ASCHENBAUER: I submitted the original volume under Document No. PS-2354. It is not my fault that the discrepancy occured.

COLONEL JONES: The number is the number given the entire book. If the defense council refers to a paragraph in the book, which is not numbered, he should at least give us the page and details concerning same.

H0922-0007

X MR. ASCHENBAUER: I will comply with that request. I have made reference to Page 484 in the book describing the organization of the Nazi Party.

COLONEL SMIRNOV: I would like to ask the Defense Council that whenever he quotes a book to state clearly when and where and by whom the book has been published. Books concerning the NSDAP were published in many editions and the page numbers of one edition do not comply with the page numbers of other editions.

MR. ASCHENBAUER: The title of the book is "Reichsorganisationsleiter" and is published by Dr. Julius Doerfler, the head of the Nazi party organization It was published in 1936 by the Publishing House of the Nazi Party and the quotation may be found on Page 484.

CAPTAIN TUBRIDY: As I understand it, you are quoting from a book from Page 484 and that excerpts from the book have been put in evidence by the prosecution but that the quotation you submit has not been included?

MR. MASE: Would it not simply the procedure if the rules in submitting the Documents would be followed by the Tribunal?

CAPTAIN TUBRIDY: Colonel Griffith Jones has suggested in the interest of not delaying the procedure further that we accept this and let the prosecution submit their objections when the prosecution has had an opportunity to look the Documents over.

MR. ASCHENBAUER: May I state that the delay was caused only by the request of one of the prosecution's attorneys and not by myself.

MR. MASE: I believe that if the Defense Council has requested the hearing of a witness he should come before the commission fully and technically prepared.

H0922 – 0008

CAPTAIN TUBRIDY: Let us get on with the witness.

MR. ASCHENBAUER: I am awaiting on a decision regarding the affidavit by Weber.

CAPTAIN TUBRIDY: We accepted it on the same basis as we accepted the other affidavit.

MR. ASCHENBAUER: Then, I have no other questions to the witness. I have to correct myself. This affidavit is an original in regard to the other Document and I have been requested to submit the Documents as soon as I have secured the originals. I therefore would like to ask whether I may quote those Documents and may ask the Witness questions in connection with those quotations.

CAPTAIN TUBRIDY: What are the Documents?

MR. ASCHENBAUER: I make reference to the last Document, the one which is an affidavit by Dr. Frederick Weber.

CAPTAIN TUBRIDY: Yes, we ask you to get on with the examination of the witness.

MR. ASCHENBAUER: I am quoting from this affidavit, it is quoted: "Munich- May 18, 1946. As far as I remember the Gaustudentenfueher, Dr. Julius Doerfler, delivered a speech in May or June of 1936 at the request of a meeting of the legal faculty of the student body of the law school of the University of Munich. Among other things, he stated, 'Every student is attending college at the expense of the state. The admission fees, which the student is paying, does not cover at all the expenses which the state has in connection with the training of the students. For that reason, the state is demanding that every student serve in the party or one of its organization. In the case of any student who considers himself too good to do so, he (Dr. Weber) will see to it

that he will have to fulfill the functions of a street cleaner. He will also see to it that such a student will never be admitted to examinations. At this time it was already known unofficially in wide circles that refusal to comply with orders by the state or by the party, or even the attempt or suggestion to do so, would generally result in supervision by the SD, because one refushed to serve in the general service of the people." (Signed) Dr. Frederick Weber.

BY MR. ASCHENBAUER:

Q I therefore ask you, Mr. Witness: (1) What would have happened if someone had refused to join the SA? and (2) What would have happened if someone would have attempted to leave the SA?

A The one act of refusing the join the SA would most certainly have caused the individual to encounter the most severe difficulties and dangers. If he would have given as the reason that he objected against National Socialism, that would have been regarded as a complete destruction of his existance. The conditions in the student body were most similar to the civil servants. I well remember an article written by the Gauleiter Kassel, published in the Kurhessischen Landeszeitung, that article was published in 1937 before admission to membership in the Nazi party was possible and he stated that the civil servant who still refuses to enter the party or one of its organizations would be considered as a deserter and those civil servants who had not yet joined the party were greatly shocked by the article. I preserved the article for many years to have it as a testimonial in connection with joining the party.

Q In addition to losing one's job, did one anticipate public information and possibly even being arrested and put in a concentration camp in some cases?

A I have to answer that most certainly in the affirmative in connection

H0922 -0010

with those cases in which the individual disclosed that he was not a National Socialist.

Q Was it possible at all to escape and to request dismissal from service for the state?

A Up to 1939 each civil servant had a legal grant to request his dismissal from his position if at the same time he agreed to lose all civil servant rights. Beginning with 1939, it was legally impossible to obtain such a dismissal from the group of Civil Servants.

Q Did there exist also a threat?

A Yes, that threat would have existed whenever a civil servant should have demanded his resignation with the statement that he was not in agreement with National Socialism. There were numerous ordinances stating that every civil servant had to support the National Socialist State without any limits. There was also special procedure and danger for those individuals who did not qualify and absolutely adhere to the National Socialist state.

Q Under which point of view was the possibility to act freely curtailed?

A I believe that such curtailment of freedom of action could be best characterized by one quotation freely used by National Socialist leaders, that slogan was: "We are all together in one boat and no one can be permitted to leave."

Q Would you know whether there existed in regard to other locations similar compulsory ordinances making it obligatory for the individual to join the SS?

A I do not know any positive details, but I do recall in some industries similar practices.

Q How were the effects of the Kurchessischen Landeszeitung on the younger generation?

H0922-0011

A After the issuance of that law, the younger generation by 100% became a part of the political action as their being active politically was demanded from them for the future course of their lives. I would like to remind you of a well known speech by Hitler, in which he stated that the young men would be passed on from one party organization to another and would not be dismissed from political activity until his high age.

MR. ASCHENAUER: I have no further questions.

CAPTAIN TUBRIDY: I would like to ask the witness a few questions now.

BY CAPTAIN TUBRIDY:

Q How many employees of the state were there in Germany in 1939?

A The number of civil servants and employees of all public services in all branches in 1939 amounted to a maximum of three and one half million people.

Q Do you know the total membership of the Nazi party about this time?

A In 1939, the NSDAP had approximately six million members. I draw this conclusion from the membership numbers issued at that time.

MR. ASCHENAUER: May I ask whether in the figure of three and one half million given, were women included in that number?

THE WITNESS: That three and one half million was the total number of all individuals in public service.

CAPTAIN TUBRIDY: Do you know if all of these three and one half million public servants were members of the Nazi Party?

THE WITNESS: Of course, I am not in a position to answer that question, but in those offices in which I was employed 18% had been members of the party, or one of the organizations.

(The Commission Adjourned at 1045 hours)

H0922 - 0012

Com.
Take 1-Pg. 11
Meehan
28 May.

The foregoing is a true and correct transcript of the testimony of GOTTFREID BOLEY, taken on 28 May 1946.

Alice Meehan
Reporter (pp 1-11)

Reporter (pp)

Reporter (pp)

CERTIFIED TO:

Joseph F Tubridy
Commissioner

Commissioner.

Copy

Defendant's organization: SA
Exhibit No. 1
(For identification)
May 1

S A - Hochschulamt München

(SA-University Office Munich)

O r d e r !

1. In May 1934 all German students having passed their abiturium 1933 are conscript by the SA-Hochschulamt in order to be uniformly trained bodily and mentally in the sense of the National-Socialistic revolution according to the Order of the Führer of September 9th, 1935.

2. All male members of the German Studentship having passed their abiturium 1933 will be conscript, wether they are SA-men or SA-aspirants or no members of the SA or having practiced an occupation for any reason between abiturium and study and are not earlier but now - although belonging to an earlier year - in their 1st, 2nd and 3rd semester.

3. <u>According to the order of 7th February 1934 SA-service (SS-Service is made obligatory for all members of the German Studentship.</u>

   According to the Order of the Obersten SA-Führung F 6914 of 27th March 1934 closing of admission to the SA is dissolved for newmatriculated students in the time from 25th April to 5th May 1934. Thereby it is a duty for all newmatriculated students to join the SA.

   <u>The students have latest to report themselves until the 5th May 1934 at the local SA (SS) offices.</u> They cannot report themselves at the SA-Hochschulamt.

4. By order of the Minister of Inner Affaires of the Reich the continuation of the study for members of the German studentship from the 5th semester (firstly working Easter 1935) depends on the posession of a certificate about the year of service at the SA-Hochschulamt testified according to prescription.

5. According to an inquiry at the Ministry of Inner Affairs of the Reich and the rectors the newmatriculation and renewal of the student-card of male students of arian descent and German Reichsangehörigkeit (nationality) in the 1st, 2nd and 3rd semester will depend on the announcement at the SA-Hochschulamt. The per-

(over)

H0922 - 0013

H0922 - 0014

formed announcement will be certificated on a brown identity-card; only then the immatriculation or renewal of the student-card will be permitted.

In agreement with the rectors the SA Hochschulamt appoints the following time for the announcement for service at the SA Hochschulamt: From April 20th to the 12th may 1934 dayly 9 - 12h in the official rooms of the SA-Hochschulamt Munich, Theresienstr.39|1.

Munich, 16th April 1934
The leader of the SA-Hochschulamt Munich
m.d.F.b. (charged with the leaership)
signed Borger
Sturmführer.

Für die Richtigkeit der Abschrift
München d. 9. Jan. 1946
Sekretariat der Techn. Hochschule
München

Technische Hochschule München

Regierungsinspektor

Exhibit
Defendant Organisation SA. No.2.

Munich, 18.5.1946.

AFFIDAVIT.

Instructed of the consequences of giving a false affidavit and equally that this will be submitted to the International Military Tribunal in Nuremberg, I declare on oath:-

I remember that Dr. med. Julius Doerfler, Gaustudentenfuehrer made a speech in May or June 1936 (Summer Term 1936), on the occasion of ~~the~~ a meeting of the Legal Faculty of the Munich University. He stated among other things that: every student would study at the cost of the State, the fees which the students paid did not by a long way cover the State expenditure for the training of the students. For this reason the State demanded that every student did service in the Party or its associate organisations. In the case of anyone who thought himself too good for this, he would take care that this persons profession was that of a street-sweeper and equally he would take care that such a person was never allowed to take his examinations.

It was unofficially known far and wide that any refusal to carry out the instructions of the State and Party, just as any attempt to challenge them, ~~in~~ generally brought one under the supervision of the SD, as one wanted to exclude oneself from "working for the Community".

signed. Dr. Friedrich Weber.

The correctness of the signature of Dr. Friedrich Weber. Munich authenticated:

Stepperger.
Justizoberinspektor.

H0922-0015